

## Chapter ETF 10

## ADMINISTRATION

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**ETF 10.01 Definitions.** Words, phrases, and terms used in all ETF chapters which are not defined in this section shall have the meaning set forth in s. 40.02, Stats.:

(1g) "Active military service" and "active service," as that term is used with reference to military service, including in s. 40.02 (15) (a) (intro.) and 1, (c) (intro.), 1 and 4, and (48m) (f), Stats., mean active duty military service in the armed forces of the United States, excluding:

(a) Service reported by the military as active duty for training purposes.

(b) Service as a cadet or student at a U.S. military service academy.

**Note:** This definition does not apply to the term "active service" used in reference to active performance of the duties of employment with a participating employer, as for example in s. 40.63 (1) (c) and (2), Stats.

Insofar as possible, the department relies on U.S. armed forces documents, such as the DD 214, the AGO53-55 series, NAVPERS 553, and GSA 6851, to identify periods of "active duty" and "active duty for training."

(1m) "Current basic pay rate" means:

(a) Unless otherwise provided by ch. 230, Stats., contractual agreements authorized under subch. V of ch. 111, Stats., or par. (b) or (c), the hourly rate, or its equivalent, excluding any overtime or supplementary compensation, at which the employee is paid at the time of termination of employment or at the time of death. For an active employee or employee on an approved leave of absence the "current basic pay rate" means the hourly rate, or its equivalent, the employee is paid during the pay period or was paid prior to the commencement of the leave of absence. The equivalent of the hourly rate of pay shall be obtained by dividing the employee's total earnings in a typical pay period, excluding any overtime, on-call, extracurricular or supplementary compensation, by the number of hours, excluding hours, such as overtime, on-call and extracurricular hours which are incidental to the primary employment, for which the employee is paid in that pay period. If the employee has received a pay adjustment during the 12 months preceding termination, death or leave of absence, other than a permanent change that is broadly applicable

to the employee of that employer, or unless that change is the result of a significant change in the nature and duties and activities of that employee, then the equivalent of the hourly rate shall be the greater of the previous current basic pay rate prior to the pay adjustment or the final average earnings divided by 174.

(b) For an annuitant who becomes a participating employee subject to s. 40.22, Stats., within 3 years of the original date of termination, the greater of the current basic pay rate as established under par. (a) on the effective date of the original annuity or the current basic pay rate at the time of subsequent termination.

(c) For annuitants who become participating employees subject to s. 40.22, Stats., after more than 3 years from the original date of termination the current basic pay rate determined in accordance with par. (a) at the time of subsequent termination for sick leave accumulated after reemployment only. The conversion of sick leave accumulation in effect prior to reemployment shall be calculated by application of the current basic pay rate in effect prior to reemployment as determined under par. (a).

(2) "Dependent" means:

(a) For life insurance purposes, an employee's spouse and an employee's unmarried child, including natural child, stepchild, adopted child and a child in an adoptive placement under s. 48.837 (1), Stats., who is dependent upon the employee for at least 50% of support and maintenance and who is:

1. More than 14 days of age, but under the age of 19,
2. Age 19 or over but less than age 25 if a full-time student, or
3. Age 19 or older and incapable of self-support because of a physical or mental disability which is expected to be of long-continued or indefinite duration.

(b) For health insurance purposes, an employee's spouse and an employee's unmarried child who is dependent upon the employee or the employee's former spouse for at least 50% of support and maintenance. In this paragraph,

"child" includes a natural child, stepchild, adopted child, child in an adoptive placement under s. 48.837 (1), Stats., and a legal ward who became a legal ward of the employee or the employee's former spouse prior to age 19, and who is:

1. Under the age of 19,
2. Age 19 or over but less than age 25 if a full-time student, or
3. Age 19 or older and incapable of self-support because of a physical or mental disability which is expected to be of long-continued or indefinite duration.

(2m) "Earnings" under s. 40.02 (22), Stats., except as otherwise provided by federal regulations for OASDHI purposes, does not include payments made in lieu of welfare, payments made to reimburse welfare costs, or payments made as part of a work relief, general relief or public assistance program under ch. 49, Stats., unless employment is part of a training program to improve skills or increase employability and the employment satisfies the requirements under s. 40.22 (1), Stats.

(3) "Full calendar year" as used in s. 40.08 (8) (d) and (10), Stats., means the time period beginning on a given date and ending on the same date in the next year.

(3d) "Guardian" has the meaning given in s. 880.01 (3), Stats., and includes conservators appointed pursuant to s. 880.31, Stats.

(3h) "Inactive participant" means, for purposes of the teachers retirement board election under s. ETF 10.10, a participant who is neither a participating employee, as defined in s. 40.02 (46), Stats., nor an annuitant as defined in s. 40.02 (4), Stats.

(3m) "Medical record" includes medical evaluation, diagnosis, prognosis, rehabilitation potential, medication, treatment, diet, limitations on activities, symptoms, general physical or mental condition, x-rays, lab tests or results, or any communication or information related to the health, medical, surgical, dental, optometric, chiropractic, podiatric or hospital care or condition of a participant or the spouse or dependent of the participant.

(3p) "Monthly compensation" means, for purposes of s. 40.19 (4) (g), Stats.:

(a) Where the compensation is paid on a weekly basis, the amount computed by multiplying the employee's basic weekly pay rate by 4.3333.

(b) Where the compensation is paid on a biweekly basis, the amount computed by multiplying the employee's basic biweekly pay rate by 2.1666.

(3s) "Public school" means, for purposes of s. 15.165 (3) (a) 1, Stats., a cooperative educational service agency established under ch. 116, Stats., a county handicapped children's education board established under s. 115.86, Stats., and any school supported wholly or in part by public funds which is under the control and management of the state of Wisconsin or any subdivision of the state of Wisconsin and which is empowered by law to employ teachers; but does not mean the university of Wisconsin system, any school in the city of Milwaukee, a state agency or a vocational, technical and adult education district.

(3w) "Salary index" means, for purposes of s. 40.26, Stats., for years prior to 1982, 5%.

(4) "School system" includes, for life insurance purposes, any public entity whose primary purpose is education.

(4m) "School year" means, for purposes of s. 40.02 (3), Stats., the period beginning July 1 and ending the following June 30.

(5) "Student" means, for insurance purposes, a person, who is enrolled in an institution which provides a schedule of courses or classes and, whose principal activity is the procurement of an education. Full-time student status shall be defined by the institution in which the student is enrolled and shall include any usual vacation period if the child was a full-time student at the end of the previous term.

(6) "Summer vacation" means the time between the end of the regular school term of the school system in which the employee was last employed and the beginning of the next regular school term of that system.

**History:** Cr. Register, February, 1983, No. 326, eff. 3-1-83; r. and recr. (intro.), am. (2) (intro.), cr. (3m), Register, June, 1983, No. 330, eff. 7-1-83; cr. (3w), Register, December, 1983, No. 336, eff. 1-1-84; cr. (3h) and (3s), Register, March, 1984, No. 339, eff. 4-1-84; am. (1), Register, April, 1984, No. 340, eff. 5-1-84; emerg. cr. (4m), eff. 1-1-85; cr. (4m), Register, March, 1985, No. 351, eff. 4-1-85; cr. (2m), Register, October, 1985, No. 358, eff. 11-1-85; cr. (1m), Register, May, 1986, No. 365, eff. 6-1-86; am. (1m) (a), Register, August, 1986, No. 368, eff. 9-1-86; r. (1) and (3), Register, September, 1986, No. 369, eff. 10-1-86; r. and recr. (2), Register, January, 1987, No. 373, eff. 2-1-87; cr. (3p), Register, March, 1987, No. 375, eff. 4-1-87; cr. (3), Register, June, 1992, No. 433, eff. 7-1-92; cr. (1g), Register, September, 1992, No. 441, eff. 10-1-92; cr. (3d), Register, October, 1992, No. 442, eff. 11-1-92.

**ETF 10.03 Creditable service.** (1) For annual earnings periods beginning on or after January 1, 1985, each participating employer shall determine and report service in hours for each participating employee in the manner prescribed in this section. Earnings which are paid to a teacher, as defined in s. 40.02 (55), Stats., who has contracted to receive such payments on either a 9 or 10 month contract basis, and which are paid after the beginning of a school year, as defined in s. ETF 10.01 (4m), for services rendered in the preceding school year, are deemed to be received by the teacher on June 30 of the preceding school year for purposes of reporting service to the department.

(2) The full-time equivalent of one day of service is 8 hours. If an employer has established workdays of other than 8 hours as full-time employment for some or all of its employees, the number of hours to be reported within a reporting period is determined by the participating employer by dividing the number of hours for which earnings are paid to the employee in the reporting period by the number of hours which would have been worked in that reporting period by a regular full-time employee of that employer in the same kind of employment and multiplying the result by 40 times the number of weeks and fractions of a week in the reporting period.

(3) For purposes of s. 40.02 (17), Stats., the full-time equivalent of one year of creditable service for a teacher, as defined in s. 40.02 (55), Stats., who is not an executive participating employee, as defined in s. 40.02 (30), Stats., is 1,320 hours and for all other participating employees the full-time equivalent of one year of creditable service is 1,904 hours.

(2) When a single sum benefit of \$5,000 or less is payable, the secretary may authorize payment, for the benefit of the minor or incompetent, to the person providing for or caring for the minor, or to the spouse, parent or blood relative providing for or caring for the incompetent person.

(3) Notwithstanding sub. (2), if a guardianship is identified prior to payment, payment shall be made to the guardian, for the benefit of the minor or incompetent, upon receipt of a certified copy of the letters of appointment.

(4) If there is a guardian of the estate and another guardian of the person, payment shall be made to the guardian of the estate.

History: Cr. Register, September, 1986, No. 369, eff. 10-1-86.

**ETF 10.80 Invalid benefit applications and beneficiary designations.** (1) Except as provided in sub. (2), an application for a benefit, a designation of a beneficiary or any other document which is signed by a guardian as provided in s. 40.08 (9m), Stats., but is not accompanied by a certified copy of an order of a circuit court approving the specific terms of the document is invalid and is deemed not to have been filed with the department. The department shall return any such document to the guardian as soon as administratively feasible, but failure by the department to return such a document shall not be interpreted as approval.

(2) A certified copy of an order of a circuit court approving the specific terms of the document is not required if the document:

(a) Is a benefit application subject to s. 40.08 (9), Stats., and s. ETF 10.78;

(b) Is not required by statute, administrative rule, or contract administered by the department to be signed by the person under guardianship;

(c) Is an insurance application which is required to be filed in order to initiate, increase, continue, or convert insurance coverage or to transfer coverage from one insurance carrier to another; or

(d) Can be revoked or changed in the future without restriction, or is otherwise determined by the department to be without long-term effect on the rights and benefits of the person under guardianship. This paragraph does not apply to designations of beneficiary.

History: Cr. Register, October, 1992, No. 442, eff. 11-1-92.

**10.82 Receipt by the department.** (1) **DATE OF RECEIPT OR FILING; NON-BUSINESS HOURS AND HOLIDAYS EXCLUDED.** (a) Except as provided in sub. (2), the date a document is received by, or filed with, the department is the date the original document is physically received at the department at its offices during regular business hours as provided under s. 230.35 (4) (f), Stats., regardless of the date the document was mailed or otherwise intended to be transmitted to the department and regardless of any mis-handling or misdirection by the U.S. postal service or any other agency or person. A document which arrives at the department's offices after 4:30 p.m. or on a holiday as defined by s. 230.35 (4) (a), Stats., may not be received by the department until 7:45 a.m. on the next day on which

the department's offices are regularly open for business as provided under s. 230.35 (4) (f), Stats.

(b) No department employee may affix a date stamp to a document received by the department which indicates a date received in conflict with par. (a).

Note: This paragraph does not prohibit a department employee from making a note attached to or on the document, separate from the official receipt stamp, concerning the circumstances under which the document arrived at the department, including dates or times.

(c) A document bearing the department's date stamp indicating receipt is conclusively presumed for all purposes associated with benefits under ch. 40, Stats., to have been received by the department on the date indicated by the stamp. This presumption may be rebutted only by clear and convincing evidence that the document was received by or filed with the department, as provided in par. (a), on a different date than shown by the official date stamp. The department may correct a date stamp the secretary determines was affixed in violation of par. (b).

(2) **RECEIPT OF FACSIMILE DOCUMENTS.** (a) Notwithstanding sub. (1) (a), a document specified in this subsection may be received by, or filed with, the department on a date prior to receipt of the original when all of the following conditions are satisfied:

1. A copy of the document is received on the department's facsimile machine connected to telephone number (608) 267-4549, (414) 227-3820 or to such additional telephone number as the employee trust funds board may designate at a regular meeting, upon the recommendation of the secretary. A new facsimile telephone number may be utilized immediately after designation by the ETF board, as recorded in the minutes of the board meeting, pending amendment of this rule to include the additional number.

2. The facsimile transmission includes the full social security number of the participant, alternate payee or beneficiary to whose Wisconsin retirement system benefits the document pertains.

3. The document is one specifically identified in par. (b).

4. The facsimile is actually received on the department's facsimile machine in complete and legible form.

5. The original document, unaltered in any respect from the facsimile, is received at the department's offices no later than 14 calendar days after the facsimile is received.

(b) This subsection applies only to the following documents:

1. Form ET-1518, request for continuation of employee reimbursement account coverage.

2. Form ET-2154, application for group life insurance continuation coverage.

3. Form ET-2301, application for group health insurance, but limited to an application by an annuitant under s. 40.51 (16), Stats.

4. Form ET-2311, application for group health insurance continuation or conversion coverage under s. 40.51 (3), Stats.

5. Form ET-2313, election to cancel variable participation under s. ETF 10.31.
6. Form ET-2320, designation of beneficiary as provided by s. 40.02 (8), Stats.
7. Form ET-2321, alternate form for designation of beneficiary as provided by s. 40.02 (8), Stats.
8. Form ET-2322, application for living benefits, if sent to the department instead of to the group life insurer.
9. Form ET-2330, application for the local government annuitant health program under s. 40.51 (10), Stats.
10. Form ET-3301, application for a separation benefit under s. 40.25 (2), Stats.
11. Form ET-4301, application for an annuity or lump sum payment under s. 40.24 or 40.25 (1), Stats.
12. Form ET-4305, application to delay initiation of group health insurance premium deductions from accumulated sick leave credits as provided by s. 40.05 (4) (b), Stats.
13. Form ET-4311, employer's agreement to pay cost of actuarial reduction for retirement before normal retirement age under s. 40.23 (2m) (g) 1, Stats.
14. Form ET-4315, application for purchase of forfeited service under s. 40.25 (6) (a) 3, Stats., excluding any application based on use of any funds for payment other than an existing employee additional contribution account balance under s. 40.05 (1) (a) 5, Stats.
15. Form ET-4317, application by a retired state employee or survivor of a deceased state employee to begin group health insurance premium deductions from previously escrowed sick leave credits as provided by s. 40.05 (4) (b), Stats.
16. Form ET-4319, special retirement annuity application or application to change retirement annuity option previously selected as provided by s. 40.24 (4), Stats.
17. Form ET-5302, application for regular disability annuity benefits under s. 40.63 (1) (a), Stats.
18. Form ET-5303, medical report form for total and permanent disability for regular disability annuity benefits under s. 40.63 (1) (d), Stats., or long-term disability insurance benefits under s. ETF 50.50 (6).
19. Form ET-5304, medical report form for special disability annuity under s. 40.63 (4), Stats., or long-term disability insurance benefits under s. ETF 50.58 (1) (a) 3.
20. Form ET-5306, request for waiver of life insurance premiums due to disability.
21. Form ET-5313, long-term disability insurance benefit claim form under s. ETF 50.48 (1).
22. Form ET-5315, employer's certification of long-term disability under s. ETF 50.48 (3).
23. Form ET-5321, long-term disability insurance election form under s. ETF 50.46.
24. Form ET-5333, application to change disability annuity option previously selected as permitted by ss. 40.24 (4) and 40.63 (8) (intro.), Stats.
25. Form ET-6309, application for death benefits under s. 40.73, Stats.
26. Form ET-7291, participant's instructions for resolving multiple conflicting applications for Wisconsin retirement system benefits.
27. Written request from the participant to cancel an application for a separation, retirement or lump sum benefit as provided by s. ETF 20.20.
28. Written request from the participant to cancel a disability annuity application as provided by s. ETF 50.31.
29. Written request from the beneficiary to cancel an application for a death benefit or beneficiary annuity as provided by s. ETF 60.51.
30. Written request from an annuitant to change the election of a particular annuity option, as permitted by s. 40.24 (4) or 40.63 (8) (intro.), Stats.
31. A written appeal of a department determination to the employee trust funds board, group insurance board, Wisconsin retirement board, teachers retirement board or deferred compensation board as provided by s. 40.03 (1) (j), (6) (i), (7) (f) or (8) (f) or 40.80 (2g), Stats., respectively, and by s. ETF 11.03 (4).
32. Withdrawal of a waiver of benefits under s. 40.08 (3), Stats.
33. A physician's letter, in response to a specific written request for clarification from the department, stating whether an applicant for a disability annuity or long-term disability insurance benefits is disabled to the requisite degree.
  - (c) Each facsimile arriving on the department's facsimile machine shall be date stamped by the department in accord with sub. (1).
  - (d) 1. If pars. (a) and (b) apply, a document will be deemed received by, or on file with, the department on the date the facsimile of the document is received at the department's offices, as evidenced by the date stamp affixed under par. (c).
  2. If pars. (a) and (b) do not apply, then the date of receipt or filing is the date the original document, not the facsimile, was received. If the original document is never received by, or filed with, the department, then for purposes of administering benefits under ch. 40, Stats., the document shall be deemed never to have been received by the department, regardless of receipt of a facsimile of the document.
  - (e) The department will not take any action to process a facsimile until the original document is received and the facsimile is compared to the original.
  - (f) Nothing in this section shall require the department to undertake to advise any person that a facsimile transmission has not been received in a complete and legible form or otherwise fails to comply with par. (a) or (b). Any attempt to file documents with the department by facsimile is entirely at the risk of the person transmitting the facsimile to the department.

EMPLOYEE TRUST FUNDS

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ETF 10.84

**ETF 10.84 Response to requests.** (1) The department shall generally attempt to respond to requests to provide documents such as informational brochures, blank forms and annuity or disability estimates in the order in which such requests are received by the department.

(2) When the department responds to a request for information, forms, estimates or similar documents, if the requestor is not actually available in the department's offices for delivery by hand, the standard method of trans-

mission of requested documents to the requestor shall be through the U.S. mails or through the requestor's participating employer, if any, at the discretion of the department.

(3) In extraordinary circumstances, as determined by the department, the department may elect to transmit requested documents by facsimile.

**History:** Cr. Register, December, 1994, No. 468, eff. 1-1-95.